

REMARKS

This response is being filed in reply to the final rejection mailed December 30, 2008, and also in response to the personal interview between the undersigned and Examiner Phuong on April 1, 2009.

The undersigned thanks the Examiner for the courtesy of the interview. The sole issue discussed for this application was that addressed in Applicant's last response filed August 18, 2008; namely, whether the reliance on Odinak in the rejections of the claims is proper. In particular, Odinak was filed after the subject application's filing date and is a CIP that pulls subject matter from at least nine different earlier applications, none of which appear to disclose all of the subject matter for which it is being cited. Thus, it is not entitled to the earlier filing dates under § 120 for that subject matter because none of the earlier applications have been shown to meet § 112 support for that subject matter.

The undersigned also noted that, because Odinak is not being properly cited in this rejection and because this was pointed out in response to the first Office Action without claim amendment, that this last action should not be made final. The Examiner offered to consider these comments and those from the August 18th response again following this submission from Applicant, and noted that, if persuasive, he would issue a new, non-final action. According, Applicant respectfully requests reconsideration on this basis. The Examiner is invited to telephone the undersigned if doing so would advance prosecution of this case.

The Commissioner is hereby authorized to charge Deposit Account No. 07-0960 for any required fees or to credit that same deposit account with any overpayment associated with this communication.

Respectfully submitted,

REISING ETHINGTON P.C.

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JDS/dim